

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1628 OF 2019

Vikram Ananda Sulaskar	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

.....
Mr.Niranjan Mundargi i/b. Keral Mehta, Advocate for the Applicant.

Mr.S.S. Pednekar, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 25, 2020.

P.C. :

This is an application for bail in connection with C.R.No.385 of 2018, registered with Yavat Police Station, Pune Rural, for the offence punishable under Section 302 read with 34 of Indian Penal Code ("IPC", for short).

2 First Information Report ("FIR", for short) was lodged on 26th April, 2018, against unknown person. It was stated that the dead body of the deceased was found in under construction apartment. The deceased had sustained injuries. His mobile phone was lying near his body. The wooden log and stone was

also lying at the place of incident. It was suspected that unknown person had killed him.

3 During the course of investigation, applicant and the co-accused were arrested. The prosecution proceeded on the basis that there was quarrel between co-accused Datta Thombare and deceased Ganesh Temgire. The co-accused had objected to conduct of deceased, as he was stalking about his sister. Statement of witnesses were recorded. C.D.R. was collected. Clothes and articles were sent for forensic examination and the report was received. Charge-sheet was filed.

4 Learned counsel for the applicant submitted that the entire case is based on circumstantial evidence. There is no eye witness to the incident. The evidence of last seen together is not strong enough to establish the complicity of the applicant. He has no motive to liquidate the deceased. Even the motive attributed to Datta Thombre is weak. The C.D.R. record relied upon by the prosecution is not authentic and cannot be accepted to show involvement of the applicant in the offence of murder. The C.A. Report is silent with regards to the blood group found on the articles and clothes. There are no criminal antecedents against the applicant.

5 Learned APP submitted that there are strong circumstances against the applicant. There is evidence of the witnesses, which show that the applicant was last seen together with the deceased, before the incident. The C.D.R. Report indicates the location of the applicant near the place of crime. Postmortem report indicates that the deceased must have been murdered before 16:00 to 18:00 hours from the time when Postmortem was conducted. The Google map relied upon by the applicant refers to a longer route, however, there is shorter route to reach the place of incident and it is possible that applicant was present at the scene of crime. Although the C.A. Report with regards to the blood group is inconclusive. The applicant involved in serious offence under Section 302 of IPC and considering the nature of evidence against him, bail may not be granted to him.

6 According to prosecution, the accused had gathered together along with the deceased. They were friends. They were intending to consume liquor. Two of them had proceeded to a shop for purchasing liquor and when they returned to the place of meeting, the deceased and the accused were not present at spot. The accused did not return to the place in the whole night and on the next day, the dead body of the deceased was located. The prosecution is relying on the statement of Kiran Temgire, Yuvraj

Thombre and Rajesh Kul. I have perused the statement of these witnesses. On reading the statements, it is apparent that the applicant had no animus with deceased. There is nothing to draw adverse inference that the accused had gathered together to liquidate the accused. It is also seen from the statements of the witnesses that they used to gather at the place of incident regularly. The motive was attributed to Datta Thombare and it is alleged that at his instance, the deceased was killed. Admittedly, there is no eye-witness to the incident. Although, there is recovery of clothes from the applicant, the blood group on clothes was inconclusive. There is alleged recovery of motor cycle. The evidence of last seen together, does not appear to be strong enough to establish the complicity of the applicant in the crime. C.D.R. report is not enough to show that the applicant was present at the scene of offence and had murdered the deceased. There are no criminal antecedents against the applicant. Investigation is completed and charge sheet is filed. Case for grant of bail is made out.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1628 of 2019, is allowed;

- (ii) Applicant is directed to be released on bail in connection with C.R.No.385 of 2018, registered with Yavat Police Station, Pune Rural, he be released on bail on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall attend the concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further order;
- (iv) Applicant shall not tamper with the prosecution witnesses;
- (v) Applicant shall stay out of the jurisdiction of Yavat Police Station, Pune Rural, till conclusion of trial;
- (vi) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)